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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NANTWORKS, LLC, NANT HOLDINGS IP,
LLC,

Plaintiffs,

v.

NIANTIC, INC.,

Defendant.

Case No. 3:20-CV-06262-LB

**DEFENDANT NIANTIC, INC.'S
ADMINISTRATIVE MOTION TO SEAL RE
NIANTIC'S MOTION TO EXCLUDE
TESTIMONY OF PLAINTIFFS' DAMAGES
EXPERT ALAN GOEDDE**

Pursuant to Civil Local Rules 79-5 and 7-11, Defendant Niantic, Inc. (“Niantic”) respectfully requests leave to file under seal portions of Niantic’s Motion to Exclude Testimony of Plaintiff’s Damages Expert Alan Goedde (the “Motion”) and Exhibits A-D (the “Exhibits”) to the Declaration of Matthew Brigham in Support of the Motion (“Brigham Declaration”).

Attached to this Motion to Seal is the Declaration of Patrick Lauppe in support of Niantic’s Motion to Seal (“Lauppe Declaration”).

I. LEGAL STANDARD

The Ninth Circuit treats documents “attached to dispositive motions differently from records [*i.e.*, documents] attached to non-dispositive motions.” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006); *Ctr. for Auto Safety v. Chrysler Grp.*, 809 F.3d 1092, 1098 (9th Cir. 2016). For non-dispositive motions, the “good cause” standard applies. *OpenTV v. Apple*, No. 14-cv-01622-HSG, 2015 WL 5714851, at *2 (N.D. Cal. Sept. 17, 2015); *Kamakana*, 447 F.3d at 1180 (“A ‘good cause’ showing will suffice to seal documents produced in discovery.”); *OpenTV v. Apple*, No. 14-cv-01622-HSG, 2015 WL 5714851, at *2 (N.D. Cal. Sept. 17, 2015). For dispositive motions, the “compelling reasons” standard applies. *Kamakana*, 447 F.3d at 1180. Although Daubert motions are “nominally non-dispositive,” the Ninth Circuit has applied the “compelling reasons” standard to sealing Daubert motions filed in connection with pending summary judgment motions. *Apple v. Samsung Elecs. Co.*, 727 F.3d 1214, 1222 (Fed. Cir. 2013) (citing *In re Midland Nat’l Life Ins. Co. Annuity Sales Practices Litig.*, 686 F.3d 1115, 1119 (9th Cir. 2012)). Since the documents and information at issue in this motion meets either the “good cause” or “compelling reasons” standards, for purposes of this motion, Niantic applies the “compelling reasons” standard.

II. ARGUMENT

Niantic seeks to seal portions of the Motion—which are highlighted in yellow or indicated by red annotations in the sealed version and redacted in the publicly filed version—because they cite or describe Niantic’s highly confidential financial information. Lauppe Decl., ¶ 2. Further, since Niantic’s highly confidential financial information appears throughout the Exhibits, Niantic seeks to file the exhibits under seal in their entirety. *Id.*, ¶¶ 3-6.

Compelling reasons exist to seal portions of the Motion and the Exhibits. The Motion and the Exhibits contain highly confidential financial information, including revenue, product usage, and licensing information. Lauppe Decl., ¶¶ 2-6. The Exhibits are Plaintiffs’ damages expert Alan Goedde’s Opening Expert Report (Ex. A); a transcript of Dr. Goedde’s deposition (Ex. B); Niantic’s damages expert Julia Rowe’s Rebuttal Expert Report (Ex. C); and the Opening Expert Report of Plaintiffs’ technical expert Matthew Turk (Ex. D). *Id.* Each exhibit is marked highly confidential and/or attorneys’ eyes only. Lauppe Decl., ¶¶ 3-6.

Niantic’s technical and financial information is highly sensitive and closely protected. *Id.*, ¶ 2. Maintaining the confidentiality of technical and financial information is critical to Niantic’s business. *Id.* Disclosure of Niantic’s financial information such as revenue, product usage, and licensing information would provide competitors and potential counterparties with unfair insight into Niantic’s business strategies and cost/benefit analyses. *See U.S. v. Chen*, No. 17-CR-00063-BLF, 2022 WL 2789557, at *2 (N.D. Cal. July 14, 2022) (finding that “documents containing proprietary business information” should be sealed); *In re Electronic Arts, Inc.*, 298 F. App’x 568, 569 (9th Cir. 2008) (granting mandamus petition seeking to seal confidential financial details); *Apple Inc. v. Samsung Electronics Co.*, 727 F.3d 1214, 1218, 1229 (Fed. Cir. 2013) (finding that district court abused its discretion in refusing to seal parties’ “confidential financial information”).

Niantic thus respectfully requests leave to file under seal portions of the Motion and the Exhibits.

III. CONCLUSION

For the foregoing reasons, Niantic requests leave to file under seal portions of the Goedde Daubert Motion and Exhibits A-D to the Brigham Declaration in their entirety. Pursuant to Civil Local Rule 79-5, an unredacted version of the Goedde Daubert Motion and Exhibits A-D to the Brigham Declaration accompany this administrative motion as Exhibits 1-5 to the Lauppe Declaration.

1 Dated: April 18, 2024

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3 /s/ Alexandra Leeper

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CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the State of California. I am employed in Santa Clara County, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My business address is Cooley LLP, 3175 Hanover Street, Palo Alto, California 94304-1130. On the date set forth below I served the documents attached hereto in the manner described below:

DEFENDANT NIAN TIC'S ADMINISTRATIVE MOTION TO SEAL RE NIAN TIC'S MOTION TO EXCLUDE TESTIMONY OF PLAINTIFFS' DAMAGES EXPERT ALAN GOEDDE



(BY ELECTRONIC MAIL) I am personally and readily familiar with the business practice of Cooley LLP for the preparation and processing of documents in portable document format (PDF) for e-mailing, and I caused said documents to be prepared in PDF and then served by electronic mail to the parties listed below.

on the following part(ies) in this action:

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Executed on April 18, 2024, at Palo Alto, California.

By: /s/ Jocelyn McIntosh
 Jocelyn McIntosh